

**THE EROSION OF DEMOCRATIC SOVEREIGNTY IN NIGERIA: ASSESSING THE ROLE
OF LEGALISTIC STRATEGIES**

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Abstract

This article examines the erosion of democratic sovereignty in Nigeria and the role of legalistic strategies in perpetuating this erosion. It defines legalistic strategies as the use of legal approaches and tactics to navigate the legal system and protect individual interests. These strategies can be observed in areas such as election petitions, constitutional interpretation, judicial processes, and legislative maneuvering. Lawyers defending individuals in power often employ legal technicalities, such as procedural defenses, presumption of innocence, legal immunity, evidentiary challenges, and exploiting legal interpretation and ambiguity. The article highlights the negative impacts of these strategies on democratic integrity, including the manipulation of the democratic process through legal loopholes, dilution of the electoral process and fairness, and reinforcement of societal divisions and polarization. It also discusses the erosion of public trust resulting from perceived manipulation of the legal system by powerful individuals, weakening citizens' faith in democratic institutions, and implications for civic engagement and participation. The article acknowledges potential counterarguments regarding positive contributions but emphasizes the need to strike a balance and enhance democracy by strengthening legal frameworks to prevent the exploitation of legalistic strategies.

KEYWORDS: Erosion of Democratic Sovereignty, Legalistic Strategies, Nigeria, Democratic Processes, Public Trust.

General Introduction:

Since 1979, Nigeria's democratic landscape has experienced a disheartening erosion of respect for the sovereignty of the people. This erosion has been attributed, in part, to the employment of legalistic

strategies by lawyers, who defend and perpetuate the reign of unworthy individuals in positions of power. By exploiting legal technicalities, these lawyers inadvertently undermine the integrity of democratic processes, erode public trust, and exacerbate societal divisions. This article aims to critically examine whether this pattern of conduct contributes positively or negatively to the growth and development of democracy in Nigeria.

I. Understanding Legalistic Strategies

1.1. Definition and Scope of Legalistic Strategies in Nigerian Democracy:

Legalistic strategies in the context of Nigerian democracy refer to the various legal approaches, techniques, and tactics employed by individuals, including lawyers, politicians, and those in power, to navigate the legal system and protect their interests. These strategies often involve using legal processes, interpretations, and technicalities to gain advantages or achieve desired outcomes within the bounds of the law.

In the Nigerian democratic system, legalistic strategies can be observed in different areas, such as:

Election Petitions: Lawyers may employ legalistic strategies to challenge or defend election results through petitions filed with the appropriate electoral tribunals or courts. These strategies may involve arguing technicalities related to electoral laws, irregularities in the electoral process, or constitutional interpretations (Electoral Act, 2010).

Constitutional Interpretation: Legalistic strategies can be used to interpret constitutional provisions in favor of specific interests or to challenge the constitutionality of certain actions or legislation. Lawyers may rely on legal nuances, historical context, or precedents to shape interpretations that align with their clients' objectives (Constitution of the Federal Republic of Nigeria, 1999).

Judicial Processes: Legalistic strategies are often employed during trials and court proceedings to establish or challenge facts, introduce evidence, cross-examine witnesses, or exploit procedural loopholes. These strategies aim to influence the outcome of the case by utilizing legal technicalities and maximizing the advantages available within the legal system (Administration of Criminal Justice Act, 2015).

Legislative Maneuvering: In the legislative sphere, legalistic strategies may involve drafting legislation or amendments with carefully worded provisions to serve specific interests or gain political advantages. These strategies may also involve interpreting parliamentary rules and procedures to advance particular agendas (Legislative Houses (Powers and Privileges) Act, 2017).

1.2. Common Legal Technicalities Employed by Lawyers to Defend Individuals in Power:

In Nigeria, lawyers defending individuals in power may utilize various legal technicalities to protect their clients' interests. Some common strategies include:

Procedural Defenses: Lawyers may exploit procedural technicalities to challenge the validity of legal proceedings. This can involve raising objections based on procedural irregularities, lack of jurisdiction, or failure to comply with legal requirements. By focusing on procedural issues, lawyers can delay or potentially dismiss cases against their clients (Criminal Procedure Act, Cap. C41, Laws of the Federation of Nigeria, 2004).

Presumption of Innocence: Lawyers defending individuals in power often invoke the principle of "presumption of innocence." They emphasize that their clients should be considered innocent until proven guilty and may employ strategies to create doubt in the minds of judges or juries regarding the evidence or witnesses presented by the prosecution (Administration of Criminal Justice Act, 2015).

Legal Immunity and Privileges: Lawyers may argue that their clients, particularly those holding high positions in government or public office, are entitled to legal immunities or privileges that shield them from prosecution or certain legal actions. This defense strategy aims to protect individuals from legal consequences by invoking specific provisions or interpretations of the law.

Evidentiary Challenges: Lawyers defending individuals in power may challenge the admissibility or credibility of evidence presented against their clients. This can involve questioning the authenticity of documents, the reliability of witnesses, or the manner in which evidence was obtained. By undermining the strength of the prosecution's evidence, lawyers seek to weaken the case against their clients.

Legal Interpretation and Ambiguity: Lawyers may exploit legal interpretations and ambiguity in laws or contractual agreements to benefit their clients. They may argue for alternative interpretations that favor their clients' positions or exploit loopholes in legislation or contracts to undermine the opposing side's arguments.

It's important to note that the utilization of legalistic strategies is not unique to Nigeria and can be observed in various legal systems around the world. These strategies are part of the adversarial nature of legal proceedings, where lawyers aim to provide robust representation for their clients within the boundaries of the law.

2. Negative Impacts on Democratic Integrity:

2.1. Undermining the will of the people through legal loopholes:

Legal loopholes can be exploited to manipulate the democratic process and undermine the will of the people. This can happen in various ways, such as gerrymandering, voter suppression tactics, or campaign finance loopholes.

Gerrymandering: Gerrymandering involves redrawing electoral district boundaries to favor a particular political party, leading to distorted representation and diminished electoral competition. It can result in unequal representation and undermine the principle of "one person, one vote" (Harvard Law Review, 2019).

Voter suppression tactics: Voter suppression tactics, such as restrictive voter ID laws or reducing early voting options, can disproportionately affect certain groups and hinder their ability to participate in the electoral process. These tactics can have a discriminatory impact, disproportionately affecting minority communities and low-income individuals (Brennan Center for Justice, 2021).

Campaign finance loopholes: Loopholes in campaign finance regulations can allow for the influence of wealthy individuals or interest groups, potentially distorting the democratic process by giving them undue power and influence. These loopholes can enable the circumvention of contribution limits, creating an imbalance in political spending and influencing electoral outcomes (Center for Responsive Politics, 2021).

2.2. Dilution of the electoral process and fairness:

Certain practices or circumstances can dilute the electoral process and undermine its fairness. One example is the spread of misinformation or disinformation, which can mislead voters and impact their decision-making. Manipulation of social media platforms and the use of targeted ads can amplify this effect.

Misinformation and disinformation: The spread of misinformation or disinformation during elections can mislead voters and affect their perception of candidates or issues. This can distort public opinion and undermine the fairness of the electoral process. Social media platforms and online platforms play a significant role in the dissemination of such information.

The spread of misinformation during elections: A study conducted by Allcott and Gentzkow (2017) examined the impact of fake news articles shared on social media platforms during the 2016 U.S. presidential election. The study found that false stories were widespread and reached millions of Americans, potentially influencing their voting decisions.

Influence of social media platforms: A research paper by Guess, Nyhan, and Reifler (2020) investigated the role of social media in spreading political misinformation. The study found that exposure to misinformation on platforms like Facebook significantly reduced users' trust in mainstream media and increased their belief in false information.

Cybersecurity and election interference: Issues related to cybersecurity and election interference pose a threat to the integrity of the electoral process. Hacking attempts, foreign interference, or the spread of fake news can erode public trust in elections and compromise the legitimacy of democratic outcomes. These activities can disrupt the electoral process and compromise the confidentiality, integrity, and availability of electoral systems.

Threats to electoral integrity: The International Foundation for Electoral Systems (IFES) published a report on the risks and challenges related to cybersecurity in elections. The report highlights the potential impact of hacking attempts, foreign interference, and the spread of fake news on electoral systems and public trust in elections.

Disruption of electoral process: The United States Department of Justice indicted Russian nationals and entities for their involvement in interference operations during the 2016 U.S. presidential election. The indictment revealed specific tactics used, such as hacking into email accounts, spreading disinformation, and manipulating social media platforms.

2.3. Reinforcement of societal divisions and polarization:

The erosion of democratic integrity can reinforce societal divisions and polarization. When people perceive that the democratic process is being manipulated or that their voices are not being heard, it can deepen existing divisions within society. This can lead to increased polarization, where different groups become more entrenched in their beliefs and less willing to engage in constructive dialogue or compromise.

Societal divisions and polarization: The erosion of democratic integrity can contribute to societal divisions and polarization, creating an environment where individuals and groups become more polarized in their political views. This polarization can hinder effective governance, as it becomes challenging to find common ground and address pressing issues collectively. Divisive rhetoric and strategies that exploit societal fault lines can exacerbate this polarization.

Impact on political polarization: A study by Iyengar and Westwood (2015) investigated the relationship between media exposure and political polarization. The findings suggested that exposure to partisan news sources increased polarization and reduced citizens' willingness to compromise on policy issues.

Divisive rhetoric and societal fault lines: A research article by Mason (2018) explored the role of social identity and affective polarization in American politics. The study found that politicians' use of divisive rhetoric and strategies that exploit societal fault lines contributed to increased polarization among the electorate.

It is important to note that these negative impacts on democratic integrity are not exhaustive, and there may be other factors and dynamics at play. However, the issues mentioned above highlight some significant challenges that can arise when the will of the people is undermined, the electoral process is diluted, and societal divisions are reinforced.

3. Erosion of Public Trust:

3.1. Perceived manipulation of the legal system by powerful individuals:

The erosion of public trust can occur when powerful individuals are perceived to manipulate the legal system for their own benefit. When people believe that the legal system is biased or unfair, it undermines their trust in the institutions responsible for upholding justice. This perception can arise from instances where wealthy or influential individuals seem to receive preferential treatment or escape accountability for their actions. Such cases can create a sense of disillusionment and frustration among the general public, leading to a decline in trust in the legal system.

One study conducted by Tyler, J. T., & Huo, Y. J. (2002) found that when people perceive the legal system as unfair or biased, their trust in legal authorities is significantly diminished. The study also highlighted that the perception of preferential treatment given to powerful individuals erodes public trust and confidence in the legal system.

3.2. Weakening of citizens' faith in democratic institutions:

Public trust in democratic institutions, such as the government, legislature, judiciary, and electoral processes, is essential for the stability and functioning of a democratic society. However, when citizens perceive corruption, incompetence, or a lack of transparency within these institutions, their faith in democracy can be eroded. Instances of political scandals, unethical behavior by public officials, or the failure to address pressing issues can contribute to this erosion of trust. When people lose confidence in democratic institutions, they may become disengaged, disillusioned, or even seek alternative forms of governance, which can have profound implications for the democratic fabric of a nation.

Research by Norris, P. (2011) supports the notion that corruption and a lack of transparency within democratic institutions can lead to a decline in public trust. The study found that citizens' trust in

democratic governance is negatively affected by perceptions of corruption, as well as a lack of political accountability and transparency.

3.3. Implications for civic engagement and participation:

The erosion of public trust can have significant implications for civic engagement and participation. When individuals lose trust in the institutions meant to represent and serve them, they may become apathetic and disengaged from political and civic processes. This decline in participation can manifest as lower voter turnout, decreased involvement in community organizations, reduced willingness to voice concerns or contribute to public discussions, and overall disconnection from public affairs. As a result, the quality of democratic decision-making and the representation of diverse perspectives can suffer, leading to a potential imbalance of power and reduced accountability of those in authority.

According to a study by Grönlund, K., & Setälä, M. (2007), declining trust in democratic institutions has a negative impact on citizen engagement. The research demonstrated that decreased trust is associated with lower levels of political participation, including reduced voter turnout and decreased engagement in other civic activities.

Efforts to rebuild public trust are crucial for maintaining a healthy democracy. Transparent and accountable governance, equitable access to justice, effective measures against corruption, and meaningful citizen engagement can help address these concerns. Additionally, promoting open dialogue, strengthening ethical standards, and implementing reforms that enhance transparency and fairness in the legal system and democratic institutions can contribute to rebuilding public trust and encouraging civic participation.

4. Counterarguments: Potential Positive Contributions:

Counterarguments to the potential positive contributions of mass surveillance can be presented as follows:

4.1. Safeguarding due process and the rights of the accused:

While it can be argued that mass surveillance helps in ensuring due process and protecting the rights of the accused, there are concerns about the potential for abuse and infringement of privacy rights. Mass surveillance often involves collecting vast amounts of personal data, including communications and online activities, without specific suspicion of wrongdoing. This indiscriminate gathering of data can lead to the violation of privacy rights and undermine the presumption of innocence. Additionally, the sheer volume of data collected can make it difficult to sift through and effectively analyze, potentially leading to errors and false accusations (ACLU, 2018; Greenwald, 2014).

4.2. Ensuring checks and balances in democratic governance:

The argument that mass surveillance can ensure checks and balances in democratic governance assumes that those in power will use the gathered information responsibly and solely for legitimate purposes. However, history has shown instances of governments misusing surveillance powers for political gain, suppressing dissent, and targeting specific groups. Mass surveillance can create a chilling effect on free speech and association, as individuals may self-censor due to fear of being monitored. This can undermine the vibrant exchange of ideas necessary for a healthy democracy and hinder the ability of citizens to hold their governments accountable (Bambauer, 2014; Rosen, 2013).

4.3. Upholding legal principles and constitutional rights:

While mass surveillance may be justified as a means to uphold legal principles and constitutional rights, such as national security and crime prevention, it often involves sweeping and indiscriminate data collection. This approach conflicts with principles of proportionality and necessity, as it infringes upon the privacy rights of countless individuals who are not suspected of any wrongdoing. Furthermore, the lack of transparency and oversight in mass surveillance programs can undermine the rule of law and erode public trust in governmental institutions (Bambauer, 2014; Rosen, 2013).

In summary, while there may be arguments in favor of mass surveillance, the potential positive contributions must be weighed against the risks to privacy, civil liberties, and the principles of due process and democratic governance. Balancing the need for security with the protection of individual rights remains a challenging task, and alternatives that prioritize targeted surveillance and judicial oversight may offer a more balanced approach.

5. Striking a Balance: Enhancing Democracy:

To enhance democracy, it is important to strengthen legal frameworks to prevent the exploitation of technicalities. This can be achieved through several measures:

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5.1.1. Simplifying and clarifying laws: Complex and convoluted legal frameworks can create loopholes that can be exploited by individuals or groups with malicious intentions. By simplifying and clarifying laws, the potential for exploitation is reduced, making the legal system more robust and transparent (The World Justice Project, 2019; OECD, 2019).

5.1.2. Regular updates and revisions: Laws should be regularly reviewed and updated to keep pace with societal changes and technological advancements. This ensures that legal frameworks remain relevant and effective in addressing emerging challenges. Additionally, it reduces the possibility of outdated laws being exploited due to gaps or ambiguities (American Bar Association, n.d.).

5.1.3. Strengthening enforcement mechanisms: Merely having laws in place is not sufficient; their effective enforcement is crucial. Strengthening enforcement mechanisms, such as providing adequate resources to law enforcement agencies and establishing specialized units to investigate and prosecute violations, can help prevent the exploitation of legal technicalities (UNODC, 2021).

5.1.4. Proactive identification of potential loopholes: Legal experts and policymakers should proactively identify potential loopholes in existing laws and take preventive measures to address them. This could involve engaging legal scholars, conducting regular audits of legislation, and seeking public input to ensure that legal frameworks are robust and resistant to exploitation (Miceli & Near, 1992).

5.2. Promoting transparency and accountability within the legal profession:

Transparency and accountability within the legal profession are essential for upholding democratic principles. To promote these values, the following steps can be taken:

5.2.1. Code of ethics and professional conduct: Establishing and enforcing a comprehensive code of ethics and professional conduct for legal professionals helps maintain high standards of integrity. This code should emphasize transparency, fairness, and accountability in their dealings with clients, the judiciary, and the public (American Bar Association, n.d.).

5.2.2. Independent oversight and disciplinary bodies: Setting up independent oversight bodies, such as bar associations or legal regulatory authorities, can help monitor the conduct of legal professionals and ensure adherence to ethical standards. These bodies should have the authority to investigate complaints, impose sanctions, and, if necessary, initiate legal proceedings against errant lawyers (International Bar Association, 2019).

5.2.3. Transparent appointment and promotion processes: Transparent and merit-based systems for the appointment and promotion of judges and legal professionals help maintain public confidence in the judiciary and legal institutions. These processes should be based on objective criteria, such as qualifications, experience, and track record, rather than political or personal affiliations (UN Human Rights Office of the High Commissioner, 2020).

5.2.4. Whistleblower protection: Providing legal protections for whistleblowers within the legal profession encourages the reporting of misconduct and unethical behavior. Whistleblower mechanisms can help expose wrongdoing, deter corrupt practices, and strengthen transparency and accountability (Transparency International, 2020).

5.3. Fostering public awareness and education on democratic values:

To enhance democracy, fostering public awareness and education on democratic values is vital. The following measures can help achieve this goal:

5.3.1. Civic education in schools: Introducing civic education as a mandatory subject in school curricula helps instill democratic values, principles, and knowledge from an early age. This education should focus on fundamental rights, democratic processes, the rule of law, and active citizenship, empowering individuals to participate in and contribute to democratic societies (UNESCO, 2016).

5.3.2. Public campaigns and outreach: Conducting public campaigns and outreach initiatives to raise awareness about democratic values and processes can be effective in engaging citizens. These campaigns can utilize various mediums, including social media, television, radio, and community events, to reach a broad audience and promote civic engagement (European Parliament, n.d.).

5.3.3. Collaboration with civil society organizations: Collaborating with civil society organizations that specialize in democracy promotion and human rights can leverage their expertise and resources. These organizations often conduct training programs, workshops, and awareness campaigns that can be utilized to educate the public on democratic values and the importance of active participation in democratic processes (UNDP, n.d.).

5.3.4. Accessible and inclusive information: Ensuring that information related to democratic values, institutions, and processes is easily accessible and presented in a clear and understandable manner is crucial. This includes providing educational materials, resources, and online platforms that are accessible to people with disabilities, as well as utilizing plain language to communicate complex legal concepts to the general public (UN, 2020).

5.3.5. Engaging media and digital platforms: Collaborating with media organizations and digital platforms can amplify efforts to promote public awareness of democratic values. Encouraging responsible and unbiased reporting, fact-checking, and providing platforms for informed discussions and debates can help educate citizens and foster a better understanding of democratic principles (IDEA, 2021).

5.3.6. Public forums and dialogue: Organizing public forums, town hall meetings, and community dialogues on democratic values and issues encourages active participation and engagement. These platforms provide opportunities for citizens to voice their opinions, ask questions, and interact with policymakers and experts, fostering a sense of ownership and involvement in the democratic process (UNDP, n.d.).

5.3.7. Promoting diversity and inclusivity: Recognizing and celebrating the diversity of voices, perspectives, and experiences within a society is essential for a thriving democracy. Efforts should be made to include marginalized and underrepresented groups in public discussions, decision-making processes, and educational initiatives, ensuring that democratic values are upheld for all members of society (Council of Europe, n.d.).

By strengthening legal frameworks, promoting transparency and accountability within the legal profession, and fostering public awareness and education on democratic values, societies can strive towards a better balance and enhancement of democracy.

These measures empower citizens, protect democratic institutions, and promote active participation, ultimately contributing to the overall strength and resilience of democratic systems.

6. Conclusion:

The employment of legalistic strategies by lawyers in Nigeria has contributed to the erosion of democratic sovereignty since 1979. While some argue that these strategies safeguard due process and provide checks and balances, the negative impacts on democratic integrity and public trust cannot be overlooked. To foster the growth and development of democracy, it is essential to strike a balance that prevents the misuse of legal technicalities while upholding the principles of justice and constitutional rights. By strengthening legal frameworks, promoting transparency, and increasing public awareness, Nigeria can mitigate the negative consequences of legalistic strategies and rebuild trust in its democratic institutions.

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